



#4

Docket No: 265.0017 0101

DECLARATION

We, R. Stephen Lloyd, Amanda K. McCullough and Khoa Ngyen, declare that: (1) our respective citizenships and residence/mailling addresses are indicated below; (2) we have reviewed and understand the contents of the specification identified below, including the claims, as amended by any amendment specifically referred to herein, (3) we believe that we are the original, first, and joint inventors of the subject matter in

DNA REPAIR POLYPEPTIDES AND METHODS OF USE

Filing Date: May 23, 2001

Serial No.: 09/864,866

described and claimed therein and for which a patent is sought; and (4) we hereby acknowledge our duty to disclose to the United States Patent and Trademark Office all information known to us to be material to the patentability as defined in Title 37, Code of Federal Regulations, §1.56.*

We hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate listed below, or §365(a) of any PCT international application which designates at least one country other than the United States of America listed below, and have also identified below any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.
b. ☐ such applications have been filed as follows:

| FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC §119(a)-(d), §365(a), and/or §365(b) | | | |
|--|-----------------------|--------------------------------------|-------------------------------------|
| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) |
| | | | |
| | | | |

| ALL FOREIGN APPLICATIONS, IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S) | | | |
|--|-----------------------|--------------------------------------|-------------------------------------|
| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) |
| | | | |
| | | | |

* Title 37, Code of Federal Regulations, §1.56 is reproduced on the attached page.

Declaration

Serial No. 09/864,866

Confirmation No. 2264

Filing Date: May 23, 2001

Title: DNA REPAIR POLYPEPTIDES AND METHODS OF USE

Page 2 of 4

We hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below.

- a. ☐ no such applications have been filed.
b. ☒ such applications have been filed as follows:

| PROVISIONAL APPLICATION(S), IF ANY, UNDER 35 USC §119(e) | |
|--|--------------------------------------|
| APPLICATION NUMBER | DATE OF FILING (day, month, year) |
| 60/206,279 | 23 May 2000 |
| | |

We hereby claim the benefit under Title 35, United States Code, §120 of any United States applications or §365(c) of any PCT international application(s) designating the United States of America, listed below.

- a. ☒ no such applications have been filed.
b. ☐ such applications have been filed as follows:

| APPLICATION NUMBER | DATE OF FILING (day, month, year) | STATUS (patented, pending, abandoned) |
|--------------------|--------------------------------------|--|
| | | |
| | | |

Insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

The undersigned declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Declaration

Page 3 of 4

Serial No. 09/864,866

Confirmation No. 2264

Filing Date: May 23, 2001

Title: DNA REPAIR POLYPEPTIDES AND METHODS OF USE

Wherefore, we pray that Letters Patent be granted to us for the invention described and claimed in the specification identified above and we hereby subscribe our names to the foregoing specification, claims, and Declaration, on the date indicated below.



8/23/01

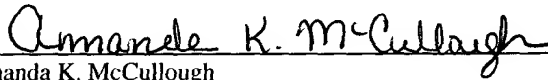
R. Stephen Lloyd

Date

Citizenship: U.S.A.

Residence: 1011 Short Reach Drive, Galveston, TX 77554

Mailing Address: Same



8-23-01

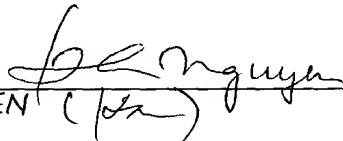
Amanda K. McCullough

Date

Citizenship: U.S.A.

Residence: 1011 Short Reach Drive, Galveston, TX 77554

Mailing Address: Same



8-23-01

~~Khoa Nguyen~~ KHOA NGUYEN (for)

Date

Citizenship: U.S.A.

Residence: 7024 North Holiday Drive, Galveston, TX 77550

Mailing Address: Same

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the

Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.



PATENT
Docket No. 265.0017 0101

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | | |
|-------------------|--|---|-----------------|---------|
| Applicant(s): | Lloyd et al. |) | Group Art Unit: | 1645 |
| | |) | | |
| Serial No.: | 09/864,866 |) | Examiner: | Unknown |
| Confirmation No.: | 2264 |) | | |
| | |) | | |
| Filed: | May 23, 2001 |) | | |
| | |) | | |
| For: | DNA REPAIR POLYPEPTIDES AND METHODS OF USE | | | |

**ELECTION UNDER 37 C.F.R. §3.71, REVOCATION,
POWER OF ATTORNEY, AND CERTIFICATE UNDER §3.73(b)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The Assignee, Board of Regents, The University of Texas System, of the entire interest in the above-identified application hereby elects, under 37 C.F.R. §3.71, to prosecute the application to the exclusion of the inventors.

The Assignee hereby revokes any previous Powers of Attorney and appoints:

| | |
|-----------------------|-----------------|
| Adams, Matthew W. | Reg. No. 43,459 |
| Albin, Loren D. | Reg. No. 37,763 |
| Franklin, Kathleen L. | Reg. No. 47,574 |
| Gebhardt, Mark J. | Reg. No. 35,518 |
| Huebsch, Joseph C. | Reg. No. 42,673 |
| Muetting, Ann M. | Reg. No. 33,977 |
| Provence, David L. | Reg. No. 43,022 |
| Raasch, Kevin W. | Reg. No. 35,651 |
| Sandberg, Victoria A. | Reg. No. 41,287 |
| Walsh, Brian J. | Reg. No. 45,543 |

as its attorney or agent (with full powers of appointment, substitution and revocation) to prosecute the application, and any division, continuation, continuation-in-part, reexamination or reissue thereof, to make alterations and amendments therein, and to transact all business in the Patent and Trademark Office in connection therewith, and to receive any Letters Patent.

Serial No.: 09/864,866

Confirmation No.: 2264

Filed: May 23, 2001

Title: DNA REPAIR POLYPEPTIDES AND METHODS OF USE

Please send correspondence to the following address:

Attention: David L. Provence

Mueiting, Raasch & Gebhardt, P.A.

P.O. Box 581415

Minneapolis, MN 55458-1415

Customer Number 26,813

Board of Regents, The University of Texas System, a corporation organized and existing under and by virtue of the laws of the State of Texas, and having an office and place of business at 201 West 7th Street, Austin, TX 78701, certifies that it is the assignee of the entire right, title, and interest in the patent application identified above by virtue of an assignment from the inventors, a copy of which is attached. I have reviewed all the documents in the chain of title of the patent application identified above and, to the best of my knowledge and belief, title is in the assignee identified above.

I am empowered to sign this certificate on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

BOARD OF REGENTS,
THE UNIVERSITY OF TEXAS SYSTEM

September 4, 2001

Date


Signature

Cullen M. Godfrey

Typed or Printed Name

Vice Chancellor and General Counsel

Title

ASSIGNMENT

Whereas We, R. Stephen Lloyd, Amanda K. McCullough and Khoa Ngyen, with residences and citizenships as indicated below; have made an invention in

DNA REPAIR POLYPEPTIDES AND METHODS OF USE

U.S. Patent Application Serial No. 09/864,866 filed May 23, 2001
 International Patent Application No. PCT/US01/16900 filed May 23, 2001
 U.S. Provisional Patent Application Serial No. 60/206,279 filed May 23, 2000

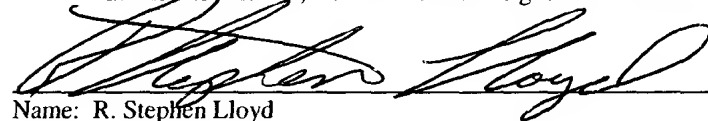
and executed an application for Letters Patent of the United States of America based thereon;

Now, therefore, for good and valuable consideration, receipt of which is acknowledged, we have individually and jointly agreed to assign and transfer and do hereby assign and transfer unto Board of Regents, The University of Texas System ("Company"), a corporation of Texas, having its principal office at 201 West 7th Street, Austin, TX 78701, its successors and assigns, the entire right, title, and interest in and to said invention and application, and in and to any division or continuation (in whole or in part) of said application, and in and to any and all improvements in said invention made by us or any of us or made jointly with others (provided any such improvement is made during, or within one year after the termination of, the employment by the Company of whichever of us, solely or jointly with one or more others, has made the same), and in and to any and all Letters Patent, reexaminations, reissues, or extensions thereof, of the United States of America and countries foreign thereto (including the right to apply for Letters Patent, Utility Models, or Inventors' Certificates in foreign countries in its own name and to claim any priority rights for such foreign applications to which such applications are entitled under international conventions, treaties, or otherwise), which have been or may be granted thereon or on any continued prosecution application, divisional, continuation (in whole or in part), renewal, reexamination, reissue, or other or further application based in whole or in part upon said invention or improvements thereon, to be held and enjoyed as fully and exclusively as they would have been by us or any of us had this assignment and transfer not been made;

We do further agree for ourselves and for our heirs, executors, and administrators, to execute and deliver without further consideration any further applications, assignments, and documents, and to perform such other acts as we lawfully may, that may be deemed necessary by the Company, its successors, assigns, and nominees, fully to secure its right, title, and interest as aforesaid and to obtain or maintain Letters Patent, Utility Models, or Inventors' Certificates in any and all countries;

And we do hereby authorize and request the Commissioner of Patents to issue any and all Letters Patent which may be granted upon any of said applications, to Board of Regents, The University of Texas System as the assignee of the entire right, title, and interest therein.

In witness whereof, we have hereunto signed our names on the days and years set forth below.



Name: R. Stephen Lloyd

Address: 1011 Short Reach Drive, Galveston, TX 77554

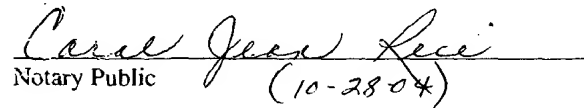
Citizenship: U.S.A.

8/23/01

Date

STATE OF Texas)
) ss.
 COUNTY OF Galveston)

On this 23rd day of August 2001, before me personally appeared R. Stephen Lloyd to me known to be the person described in and who executed the foregoing instrument, and he/she executed the same for the uses and purposes therein set forth.


 Notary Public (10-2804)

Assignment

Page 2 of 2

Serial No. 09/864,866

Filed: May 23, 2001

For: DNA REPAIR POLYPEPTIDES AND METHODS OF USE

Amanda K. McCullough

8-23-01

Name: Amanda K. McCullough

Date

Address: 1011 Short Reach Drive, Galveston, TX 77554

Citizenship: U.S.A.

STATE OF Texas)
COUNTY OF Galveston) ss.

On this 23rd day of August 2001, before me personally appeared Amanda K. McCullough to me known to be the person described in and who executed the foregoing instrument, and he/she executed the same for the uses and purposes therein set forth.

Carol Jean Rice
Notary Public (10-28-04)

Khoa Nguyen

8-23-01

Name: ~~Khoa Nguyen~~ KHOA NGUYEN (K)

Date

Address: 7024 North Holiday Drive, Galveston, TX 77550

Citizenship: U.S.A.

STATE OF Texas)
COUNTY OF Galveston) ss.

On this 23rd day of August 2001, before me personally appeared Khoa Nguyen to me known to be the person described in and who executed the foregoing instrument, and he/she executed the same for the uses and purposes therein set forth.

KHOA NGUYEN

Carol Jean Rice
Notary Public